

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

ORDER DATED 15-2-2001.

Learned counsel for the Petitioners Shri P.C. Mohapatra is absent. No request has also been made on his behalf seeking adjournment. As in this matter pleadings have been completed long ago, it is not possible to drag on the matter indefinitely. We have heard Shri D.N. Mishra, learned Standing Counsel appearing for the Respondents and have perused the records.

2. The four applicants in this case have prayed for quashing the select list dated 24-9-1997 at Annexure-2 in which three persons two belonging to Scheduled Tribe and one belonging to Scheduled Caste have been empanelled for promotion to the post of Chief Goods Supervisor in the scale of Rs. 2000-3200/- on the grounds urged by them in the Original Application.

3. Respondents have filed their counter opposing the prayer of the Applicants.

4. No rejoinder has been filed.

5. For the purpose of considering this petition, it is not necessary to go into too many facts of this case. The admitted position is that four applicants belong to unreserved category and they were working as Chief Goods supervisor Grade II in the scale of Rs. 1600-2600/- For filling up of the three posts of Chief Goods Supervisor in the scale of Rs. 2000-3200/-, 9 persons including four applicants were called to a written test in notice dated 25.2.97 at Annexure-1. Apparently, written test was held on 11-3-97 and supplementary written test was held

J.Jm.

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on 17-3-1997. Applicants have stated that they appeared at the written test on 11-3-1997.

Apparently, there was a viva-voce on 25-8-97 after which on 29-9-97, three persons have been empanelled for promotion to the post of Chief Goods Supervisor in the scale of Rs. 2000-3200/- and the applicants name did not find place in the said select list.

6. The grievance of the applicants is that all three empanelled candidates belong to reserved category. ^{out of two} _{^ 1 m} two of them belonging to ST and one belonging to SC). Applicants have stated that there are six posts of Chief Goods Supervisor in the promotional scale of which 3 had already been filled up ; one by a general candidate; one by ST and one by SC candidates. It is submitted that ~~these~~ out of the three posts already filled up only one is filled up by a general candidate and two are filled up by reserved category. Applicants' grievance is that if the present three empanelled candidates are promoted then out of the six posts 5 posts will be filled up by SC and ST category people and this will far exceed the maximum limit of reservation upto 50%. Respondents have pointed out that three candidates empanelled in the order at Annexure-2 belong to reserved category as noted earlier but they have come through a regular selection test competing with the general candidates and have been included in the panel of merit. They have not been included in the panel on the basis of their reserved status and therefore, their appointment to the promotional post can not be shown against as a candidate belonging to reserved

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NOTE OF THE REGISTRY

copy of order may be given to both the counsels.

AP
27/7/2021

Re: 50 (J)

ORDERS OF THE TRIBUNAL

category and therefore, ~~by going~~ appointment to these three persons, the principle of reservation gets limited to 50% of the total number of posts does not get violated. It is well settled that if a ~~candidate~~ SC/ST competes alongwith general candidate and gets selected on merit then his appointment can not be treated against the reserved quota even when in the concerned appointment reservation quota is there. In view of this the contention that by empanelling the three candidates at Annexure-2, Respondents ~~have~~ exceeding the limit of reservation quota is held to be without any merit and is rejected. Moreover, the petitioners have not impleaded the selected candidates as OPS to this C.A. even though they have enclosed the order empanelling them at Annexure-2. So the prayer of the applicant for quashing the select list is also not maintainable.

7. In view of our above discussions we hold that the application is without any merit and the same is rejected but without any order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

SOMNATH SOM
VICE-CHAIRMAN

KNM/CM.